

Statement for the Congressional Record

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On the Hearing in the National Security Subcommittee

of the Oversight and Governmental Reform Committee, February 2, 2016

“Seeking Justice for Victims of Palestinian Terrorism in Israel”

The Endowment for Middle East Truth, EMET, would like to express our deep and profound gratitude to Chairman Ron DeSantis and to Ranking Member Stephen Lynch for holding this critically important hearing. We also would like to particularly thank Congressman Mark Meadows for his very substantive contributions to the hearing.

The lack of justice for American victims of Palestinian terrorism is an issue that any reasonable and fair-minded American ought to be concerned about. As of today, there are 64 Americans, not including two unborn babies, who have been murdered by Palestinian terrorists in Israel or the disputed territories, that we know of, since the signing of the Oslo Accords on September 13, 1993. None of these terrorists have been brought to justice on American shores. This lack of justice can only serve to embolden future terrorists around the globe to wage further terrorist attacks against American citizens, and sends an ambivalent and pernicious message to would-be terrorists throughout the globe regarding American resolve against terrorism. It also has made a number of Americans feel that when it comes to the pursuit of justice, certain Americans are the “invisible” or “disposable” Americans.

In 1990, the Anti-Terrorism Act, 12 USC, Section 2332(b) was passed in the United States Congress. The Act states that whenever an American is killed or injured overseas by a terrorist, the United States has the right and the responsibility to indict, extradite and to prosecute him in United States courts, and for him to serve out the punishment in the American Criminal Justice System.

The Endowment for Middle East Truth, (EMET), played a critical role in the drafting and the passage of the Koby Mandell Act. It is named in memory of the 13 year old son of friends of mine, Sherri and Seth Mandell from Silver Spring, Maryland, who was killed, on May 8, 2001, together with an Israeli friend of his, Yosef Ishran, when they went for a hike in Tekoa, Israel. Their bodies had been so brutally mangled by Palestinian terrorists that they had to use dental records to identify the two young boys.

The Koby Mandell Act called for the opening of an office within the Department of Justice that was supposed to have been a voice for the American victims of terrorist acts around the globe. It took many years, but in December of 2004, the Koby Mandell Act was passed (P.L. 108-447). This Act required the Attorney General to establish an office in the Department of Justice (DOJ) – the Office of Justice for Victims of Overseas Terrorism (OVT) – to ensure that US victims of overseas terrorism receive an opportunity for justice. The office is supposed to be responsible for monitoring acts of terrorism against Americans outside the U.S., compiling pertinent data and statistics on these crimes, filing reports with Congress, acting as an intermediary between the DOJ and victims and their families, and also

setting up and activating a joint task force after every terror incident against American citizens overseas. Essentially, the OVT is meant to be an advocate for the victims and their families, to pressure the DOJ to bring to justice those terrorists who have harmed Americans. (The implementation memo is attached.)

When the OVT opened, then-Attorney General Alberto Gonzales acknowledged that prosecuting such terrorists for their attacks on Americans “are and shall continue to be a high priority.” Mr. Gonzales said that “This new office guarantees a voice for victims and their families in the investigation and prosecution of terrorists who prey on Americans overseas,” and “Our commitment to these victims is as strong as our dedication to bringing these terrorist attackers to justice.”

The OVT has been in existence since May of 2005. It has been in existence under U.S. Presidents of both political parties. Yet the DOJ has never indicted, extradited, and/or prosecuted a single Palestinian terrorist in any attacks against U.S. victims that occurred in Israel or the disputed territories. Under both Republican and Democratic administrations, the OVT has demonstrated either no ability – or a total lack of willingness – to pressure the DOJ to prosecute any of these cases.

In October of 2011, over 1000 Palestinian terrorists were released from Israeli jails for captured Israeli soldier, Gilad Shalit. More than a dozen of them, that we are aware of, had American blood on their hands.

One of the most notorious of these 20 terrorists is Ahlam Tamimi. On August 9, 2001, Tamimi’s actions caused a bomb blast that pulverized a Sbarro Pizzeria located in Jerusalem. Among those killed were two Americans: Malki Roth, a 15 old girl, and Judith Greenbaum, a 31 year old pregnant woman.

After her release in 2011, Tamimi was given money from both Hamas and the Palestinian Authority, moved to Jordan, began to host a weekly show on the Hamas TV station, and became a regular commentator on Arab media, frequently celebrating her crimes.

Tamimi has confessed to her crimes multiple times on video. Under U.S. law, these taped admissions may be used in court to convict her. (For example, see one video here: <https://www.youtube.com/watch?v=wkAuvlQTzWU>). .)

On December 1, 2011, U.S. Senator Jim Inhofe wrote a letter to Attorney General Eric Holder asking the DOJ to bring Palestinian terrorists with American blood on their hands to justice. Sen. Inhofe wrote this letter after meeting with EMET staff on this issue. (This letter is attached.)

On March 1, 2012, U.S. Representatives Joe Walsh (R-IL) and Howard Berman (D-CA) co-wrote a letter to Attorney General Eric Holder asking the DOJ to bring Palestinian terrorists who killed or maimed Americans to justice, and specifically referenced the more than a dozen Palestinian terrorists with American blood on their hands released by Israel in the Gilad Shalit deal. In an appendix, it specifically named some of them, including Ahlam Tamimi. Fifty-two other U.S. Congressmen, from both parties, co-signed this letter. The Congressmen wrote this letter after meeting with EMET staff on this issue. EMET staff helped secure many of the co-signers for this letter. (This letter is attached.)

In April of 2012, the DOJ sent its response letters to the Walsh-Berman and Inhofe letters. These response letters claimed that “there are significant impediments to bringing prosecutions in the United States for attacks that occur overseas.” The main impediment mentioned was “(t)he crime scenes are located in places that are not under the United States’ control and, therefore, the United States is

entirely dependent on the sovereign country where the attack occurred for assistance and cooperation in these investigations.” Thus, the DOJ asserted that it could not guarantee that everything would be done by the letter of U.S. criminal law, and that there would be resulting problems with the chain of custody of the evidence and the admissibility of confessions. (These letters are attached.)

This Justice Department argument, while it may hold up for some cases, does not hold up in reference to the Tamimi case.

On July 3, 2012 U.S. Sen. Jim Inhofe R-OK sent another letter, specifically following up on the Tamimi case. He wrote that under U.S. law, Tamimi’s taped admissions are not banned “hearsay” and may be used in court to convict her. (This letter is attached.)

On August 28, 2012, the DOJ responded to Sen. Inhofe’s second letter. In their response, the DOJ claimed that they could not discuss the Tamimi case because it was an “ongoing investigation.” (This letter is attached.)

In 2013, Israel pledged to release 104 Palestinian terrorists as a precondition for “peace talks” with the Palestinian Authority.

On November 1, 2013, Rep. Matt Salmon (R-AZ) wrote a letter to Attorney General Holder asking the DOJ to ask Israel not to release any Palestinian terrorists with American blood on their hands, and to bring Palestinian terrorists to justice. Fourteen Congressmen co-signed this letter. The Congressmen wrote this letter after meeting with EMET staff on this issue. EMET staff helped secure many of the co-signers for this letter. (This letter is attached.)

Three groups of terrorists, totaling 78, were eventually released by Israel. Two of the terrorists released – Damara Ibrahim Mustafa Bilal and Mustafa Othman al-Haj – were both convicted of murdering Steven Rosenfeld, a U.S.-born former Marine who immigrated to Israel.

According to Congressman Matt Salmon’s office, as of Wednesday, February 3, 2016, the Department of Justice never even bothered to respond to Congressman Salmon’s letter.

EMET strongly believes that any American killed or harmed in Israel or the disputed territories by Palestinian terrorists deserves the same justice as any other American citizen who has been killed or harmed anywhere throughout the world. The United States Congress apparently does as well. Otherwise, they would never have passed the Koby Mandell Act.

EMET strongly believes that for the last ten years, the Department of Justice has ignored the legislative intent of the Koby Mandell Act.

EMET strongly believes that the DOJ and OVT’s unwillingness to prosecute Palestinian terrorists, and the U.S. government’s opposition to civil lawsuits targeting Palestinian groups and Iran and other terror sponsors, demonstrates weakness to these and other bad international actors, and thereby encourages more terror attacks on American citizens around the globe.

EMET strongly applauds Chairman DeSantis and Ranking Member Lynch for taking us one step closer to justice for these victims and their families, by conducting an oversight hearing regarding this failure by

the U.S. government, is a necessary and strong step to delivering justice to American victims of Palestinian terrorism.

EMET applauds the conditions put upon OVT by Chairman DeSantis, Ranking Member Lynch and Rep. Mark Meadows to live up to the Office's responsibilities as outlined in the implementation memo that was written over 10 years ago; and to produce something for the victims and their families, in order that the victims will know exactly what their rights are; to communicate frequently and clearly to the victims and their families about the status of the investigations and prosecutions of terrorist incidents involving themselves and/or their loved ones; and to get a report back to Chairman DeSantis within 120 days.

EMET strongly hopes that this hearing will pressure the DOJ and the OVT to do their job and prosecute these terrorists. The failure to do so can only contribute to a growing sense of impunity, invincibility and triumphalism by Islamic terrorists who murder American citizens.

EMET strongly hopes that this hearing will pressure the Executive Branch to cease opposing civil lawsuits against foreign terror actors. Again, this can only result in the growing sense of impunity, invincibility and triumphalism by Islamic terrorists who murder American citizens.

EMET strongly hopes that if the Executive Branch and the Department of Justice refuse to reverse their unfortunate course, then the U.S. Congress will continue to exert pressure on them to do so.

EMET strongly hopes that the U.S. Congress will take any and all other steps necessary to assist American victims and their families to obtain justice from the Palestinian terrorists and other international actors who have harmed them.

EMET, once again, wants to express our profound gratitude to Chairman DeSantis and Ranking Member Lynch for convening this important hearing. EMET, once again, would also like to thank them and Representative Mark Meadows for their willingness to conduct oversight and demand some accountability on this critically important issue, involving the pursuit of equal justice under the law for all of America's citizens.